

November 10, 2020

VIA ECF

The Honorable Valerie E. Caproni
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Joffe v. King & Spalding LLP, No. 17-cv-3392-VEC-SDA

Dear Judge Caproni:

The undersigned is the plaintiff in the above-captioned action, proceeding *pro se*. On behalf of both parties, the undersigned writes to inform the Court that the parties hereby stipulate to a nonjury trial on the pending ERISA claim in the above-captioned action.

The complaint in the above-captioned action consists of two claims—for breach of the implied-in-law obligation set forth in Wieder v. Skala, 80 N.Y.2d 628, 609 N.E.2d 105 (1992), and for unlawful interference with benefits in violation of Section 510 of the ERISA, *see* 29 U.S.C. § 1140—with a jury demand asserted as to both claims. (*See* Doc. No. 1 at 12-14, 15.) In the parties' Proposed Joint Pretrial Order, Defendant stated that it "does not object to a jury trial with respect to Plaintiff's Wieder claim, but objects to a jury trial with respect to Plaintiff's ERISA claim." (*See* Doc. No. 224 at 3.) Thus, in its Order dated October 23, 2020, this Court directed the parties to brief the issue of whether the undersigned is entitled to a jury trial on the ERISA claim. (*See* Doc. No. 253 at 3.)

Subsequent to this Court's October 23, 2020 Order, the parties held a meet-and-confer at which they agreed to stipulate to a nonjury trial on the ERISA claim. Accordingly, and pursuant to Federal Rule of Civil Procedure 39(a)(1), the parties hereby wish to enter their stipulation to a nonjury trial on the ERISA claim in the record.

In addition, because the instant stipulation renders the issue of entitlement to a jury trial on the ERISA claim moot, the parties also respectfully request that this Court cancel the portion of its October 23, 2020 Order directing the parties to submit briefing on that issue.

Thank you for your consideration of the foregoing.

Respectfully submitted,

/s/ David A. Joffe
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cc (via ECF): All counsel